

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 4 December 2017

Public Authority: Sheffield City Council (the Council)

Address: PO Box 1283
Sheffield
S1 1UJ

Decision (including any steps ordered)

1. The complainant has requested information relating to the Streets Ahead Five Year Tree Management Strategy. The Council confirmed that the requested information was not held under section 1(1)(a) FOIA.
2. The Commissioner considers that the Council was correct to confirm that it does not hold the requested information under section 1(1)(a) FOIA.
3. The Commissioner requires no steps to be taken.

Request and response

4. On 4 February 2017 the complainant made the following request for information under the FOIA for:

The version of the Streets Ahead Five Year Tree Management Strategy that is published on Sheffield City Council's website is version 7 (January 2016). Please can you provide copies of versions 1 (February 2013), 2 (March 2013), 3 (May 2013), 4 (July 2013), 5 (November 2013), and 6 (November 2014).

5. On 16 February 2017 the Council responded. It refused to disclose the requested information under section 41 and 43 FOIA and 12(5)(e) EIR.
6. The complainant requested an internal review on 20 February 2017. The Council sent the outcome of its internal review on 21 June 2017. It upheld its original position.

Scope of the case

7. The complainant contacted the Commissioner on 23 June 2017 to complain about the way her request for information had been handled.
8. During the course of the Commissioner's investigation the Council revised its position. It confirmed that the information requested was not held under section 1(1)(a) FOIA. The Council communicated its revised position to the complainant.
9. The Commissioner confirmed with the complainant that her investigation would look at whether the Council was correct when it said that it does not hold the requested information.

Reasons for decision

10. Section 1(1)(a) of FOIA states that, "Any person making a request for information to a public authority is entitled – to be informed in writing by the public authority whether it holds information of the description specified in the request". Section 1(1)(b) of FOIA states that, "If that is the case, to have that information communicated to him".
11. During the course of the Commissioner's investigation the Council explained that it did not initially locate the information requested, it applied exemptions on a hypothetical basis ie. if the information were held the exemptions it considered would apply. When it attempted to locate the information, to provide the Commissioner with it to enable her to proceed with her investigation, the Council found that the information the complainant had requested was not held.
12. The Council explained that in order to identify if the requested information is held it made checks with the Streets Ahead Contract Management Team together with the Council's Highways Maintenance Department who manage the day-to-day operations with its contractor; including the management of highway trees.
13. It said that confirmation that the earlier versions are no longer retained had been provided directly by the contract manager for the Streets Ahead contract who confirmed that relevant records would have been held and processed by the Highways Maintenance Department at the time of reviewing the initial versions. A copy was not provided to, or held, by her team as it was not relevant to the contract management requirements managed by her team.

14. It said that the relevant officer tasked with the management of highway trees did not hold these documents on his computer. He noted that he does not tend to keep documents which have been superseded by new versions (thus why earlier versions were not retained).
15. It went on that a check had been completed on the Council's Collaborative Working Platform with its contractor and copies of the earlier versions are not stored on this platform.
16. It said that a wider search with relevant officers within the Highways Maintenance Department who may have had access to the previous versions have confirmed they do not hold the documents. A further search on the online server file storage for the Highways Maintenance Department has confirmed that these documents are not stored there.
17. The Officer at the Council's contractor who initially wrote these documents is no longer employed by the contractor, as a result earlier versions will not be held locally by the initial originator.
18. The Highways Maintenance Department has therefore confirmed that as a result of these searches that they believe they have exhausted all available avenues of locating these earlier versions of the Tree Management Strategy.
19. The Council confirmed that the search terms used was "Tree Management Strategy" this search had to be limited in part due to the amount of correspondence and documentation held generally by the Council in regard to the management of highway trees. It said for example a search for the term "tree" in isolation would return a massive range of documentation held by the relevant team due to their work being focused on the management of highway trees.
20. The Council said that hard copies may have been printed from electronic versions of the documentation at the time; however, this information will not be held in an accessible manner if retained. It said that hypothetically such documentation may have been retained post the creation of later versions of the strategy. It said that in the unlikely event that any such records were retained they would not be linked to a central filing system or within structured records. It went on that it is most likely that a copy has not been printed; particularly as the Council will attempt to function in a paperless environment and in line with good information management practise - where information will be destroyed once actions are complete.
21. It said that in terms of communications with staff, as with electronic searches, it has been in contact with the teams involved in the review of

the Tree Management Strategy and they have reviewed if hard copy records are held.

22. It went on that the Council does not have the capacity on cost grounds, to complete a full review of every hard copy piece of documentation held within the Councils Streets Ahead Contract Management Team and the Highways Maintenance Division.
23. It is aware that physical copies of documentation can be held by the Council in terms of submissions to formal Council/ Committee meetings, however the Tree Management Strategy would not have been retained or submitted in this manner; thus no hard copy records would be retained through that process.
24. It concluded that there is no statutory requirement for the Council to hold a hard copy of this documentation; and it considers that the likelihood that a printed record would be retained to be very low. It does not therefore consider that it would be proportionate, or within cost limits under FOIA, to review each and every hard copy document held by the relevant departments in an attempt to locate a copy, which is unlikely to be held given that relevant personnel has confirmed that hard copies are not held.
25. The Council said that whilst the earlier electronic versions were held by the Council, these were deleted as new versions were provided and actioned. It said that it does not hold records which identifies when the deletion occurred; as this is no auditable record for the deletion of this form of information as there is no business purpose to retain such a record. Such records are not specifically listed on the Council's records management policy and with an organisation the size and scale of the Council it is difficult to successfully capture a records management policy which will cover all forms of information held by the Council.
26. There is no business purpose for the retention of the earlier versions of the strategy. The Council retains the latest version as this is the live document and the one used by the Council and its contractor in the management of highway trees. There is no requirement or value to the Council in the retention of earlier versions of the strategy.
27. Finally the Council confirmed that it does not consider that there is any statutory requirement for the Council to retain records in this manner. The production of a Tree Management Strategy is not a document which is statutorily required and therefore there is no statutory requirement for the Council to hold earlier versions of the document.
28. In this case the Council has explained that it has conducted searches, both electronic and manual, by all relevant personnel within the Council

and with its contractor. It has used appropriate search terms and has liaised with individuals with the relevant working knowledge of the requested information to undertake searches. Whilst the Council has not reviewed every hard copy document held within the Councils Streets Ahead Contract Management Team and the Highways Maintenance Division it has asked relevant staff members within those departments to conduct electronic and manual searches for information. It is therefore highly likely that if a hard copy of an earlier version had been retained, as the Council's enquiries were directed towards the appropriate personnel, hard copy versions would have been located if held.

29. Based upon the Council's submissions the Commissioner is satisfied that on the balance of probabilities, this information was not held at the time of the request under section 1(1)(a) FOIA.
30. The Commissioner considers that in this case it is unfortunate that the Council did not conduct a search for the information before proceeding to apply exemptions on a hypothetical basis. However the Council has confirmed that it has taken steps to remind the personnel dealing with FOIA requests to determine what is actually held from the outset to avoid this confusion in the future.

Right of appeal

31. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from: First-tier Tribunal (Information Rights)

GRC & GRP Tribunals,
PO Box 9300,
LEICESTER,
LE1 8DJ

Tel: 0300 1234504

Fax: 0870 739 5836

Email: GRC@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

32. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
33. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Signed

Gemma Garvey
Senior Case Officer

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF